

MINUTES OF THE JOINT EXECUTIVE APPROPRIATIONS COMMITTEE

November 13, 2007 at 1:00 p.m.

Room W135, House Building, State Capitol Complex

Members Present: Sen. Lyle W. Hillyard, Co-Chair
Rep. Ron Bigelow, Co-Chair
Sen. Peter C. Knudson, Vice Chair
Rep. Rebecca D. Lockhart, Vice Chair
Sen. Curtis S. Bramble
Sen. Gene Davis
Sen. Mike Dmitrich
Sen. Patricia W. Jones
Sen. Sheldon L. Killpack
Sen. John L. Valentine, President
Rep. Brad L. Dee
Rep. David Clark
Rep. Greg J. Curtis, Speaker
Rep. Brad King
Rep. David Litvak
Rep. Carol Spackman Moss
Rep. Phil Riesen
Rep. Gordon E. Snow

Members Excused: Sen. Dan Eastman
Sen. Ed. Mayne

Staff Present: Jonathan Ball, Director, LFA
Dr. Andrea Wilko, Chief Economist, LFA
Greta Rodebush, Secretary, LFA

Speakers Present: Tenielle Young, Governor's Office of Planning and Budget
Paul Williams, Legislative Compensation Commission
Susan Lawrence, Legislative Compensation Commission
Carlos Bracerias, Utah Department of Transportation
Rick Coleman, Office of the Legislative Auditor General
Wayne Kidd, Office of the Legislative Auditor General
Dave Hart, Capitol Preservation Board
Mark Bleazard, Office of the Legislative Fiscal Analyst

A list of visitors and a copy of handouts are filed with the committee minutes.

1. Call to Order - Approval of Minutes

Committee Co-Chair Hillyard called the meeting to order at 1:12 p.m. He congratulated Rep. Brad King as the new Minority Leader of the House. He replaces Rep. Ralph Becker,

newly elected mayor of Salt Lake City. Rep. King introduced Rep. David Litvak as the new House Minority Whip, and Rep. Phil Riesen as the new House Minority Caucus Manager. Rep. Carol Spackman Moss will continue to serve as the House Minority Assistant Whip.

Co-Chair Hillyard asked Sen. Pat Jones for an update on Sen. Mayne's health.

Sen. Pat Jones reported that Sen. Ed Mayne was in an Intensive Care Unit (ICU) due to health complications. He is now in a regular room and there is the hopeful expectation that he will gain enough strength to be released from the hospital. Co-Chair Hillyard asked Sen. Jones to communicate to Sen. Mayne and the Democratic leadership that he is missed and that the Committee wishes him the very best.

Co-Chair Hillyard entertained a motion on the minutes.

MOTION: Co-Chair Bigelow moved to approve the minutes of October 16, 2007.
The motion passed unanimously with Sen. Davis and Sen. Dmitrich absent for the vote.

Co-Chair Hillyard brought to the committee's attention that Item #3 on the agenda - Executive and Judicial Compensation Commission, would not be heard. He explained that he had spoken with John T. Nielson, Chair, Executive and Judicial Compensation Commission, prior to the meeting and he indicated that there has been some difficulty in finding replacements for vacant positions in the Commission.

Co-Chair Hillyard pointed out that under Tab 3, there is a memorandum to the Executive Appropriations Committee, dated November 13, 2007, that further explains that three of the six-member Commission's terms of service expired during the 2007 interim and that two of the three positions have been filled. Once the third position is filled, the fully appointed Commission can legally meet to conduct its business as specified in statute.

Co-Chair Hillyard stated that this report will be heard at a future meeting.

2. Federal Funds Report

Tenielle Young, Governor's Office of Planning and Budget, presented the Federal Funds Report for the period October 1, 2007 through October 31, 2007. She explained that there were no new grants requiring legislative action and only one reapplication of an existing grant requiring legislative action. Ms. Young also noted that two new grants had been approved by the Governor's Office and that there were no reapplications of existing grants.

Rep. Bigelow asked for responses to his inquiries regarding last month's Federal Funds Report. Ms. Young stated that she had sent email responses and agreed to discuss the responses after the meeting.

Rep. Bigelow asked for a funding clarification on the new grant approved by the Governor's Office - Natural Resources - Land and Water Conservation Fund. Ms. Young stated that the Land and Water Conservation Fund provides matching grants to assist state and local governments in acquiring and developing public, outdoor recreational facilities such as state and community parks. Facilities may include sports and play fields, picnic areas, swimming facilities, support facilities, etc.

MOTION: Rep. Bigelow moved to approve one reapplication of an existing grant requiring legislation listed in the Federal Funds Report for the period October 1 through October 31, 2007. The motion passed unanimously with Sen. Gene Davis and Sen. Mike Dmitrich absent for the vote.

3. Executive and Judicial Compensation Commission

The state's Executive and Judicial Compensation Commission was amended to become the Elected Official and Judicial Compensation Commission during the 2007 General Session as per S.B. 196, "Executive Compensation Amendments." As discussed earlier, this agenda item will be scheduled for a future meeting.

4. Legislative Compensation Commission

Paul Williams, Chair, and Susan Lawrence, Vice Chair, Legislative Compensation Commission, reported on the Commission's salary recommendations for the Utah State Legislature, beginning with the 2009 General Session.

The Commission's recommendations were based on an analysis of comparative salary data from all fifty state legislatures and Utah-specific compensation issues. A particular emphasis was given to making comparisons with legislatures categorized as "citizen legislatures" by the National Conference of State Legislatures.

The Commission found that Utah ranks thirty out of the fifty states in legislative compensation after taking out differentiating factors such as annual versus daily pay and session length. Utah ranks seventh out of the eleven western states, seventh out of fifteen similarly populated states, and fourteenth out of seventeen states with similar median incomes.

Based on the review and analysis of the data contained in the report, the Commission made the following recommendations:

1. The Commission recommends that compensation for legislators to continue at a daily rate rather than an annual salary amount.
2. The Commission recommends that the salary rate for all legislators be raised \$10 per day (a 7.7% increase), from \$130 a day to \$140 a day for each calendar day of the annual

general session and for each day a legislator attends veto-override, special sessions, or other authorized legislative meetings. This increase would change Utah's national rank in legislative pay from 30 to 27 and it would also change Utah's rank among the 11 Western States from seven to six.

3. The Commission recommends that additional compensation for legislative leaders to remain at \$3,000 per year for the Senate President and the House Speaker and at \$2,000 per year for the Majority and Minority Leaders.
4. Recognizing that the appropriate level of expense reimbursement for legislators falls outside of the statutory duty of the Commission, the Commission recommends that Legislative Leadership or each House investigate the feasibility of adjusting the lodging reimbursement and/or per diem in order to compensate rural legislators for the extra time, travel, and hardship incurred by traveling from outside the Wasatch Front.

Sen. Bramble asked for a clarification on what constituted rural legislators living outside the Wasatch Front. He pointed out that many legislators who live along the Wasatch Front experience the extra time, travel, and hardship incurred when traveling "within" the Wasatch Front. Ms. Lawrence responded that it is difficult to define who would and wouldn't be eligible for reimbursement. Mr. Williams mentioned that in the last Commission discussion, it was suggested that "rural" might be defined as a legislator who covers more than one county. He again pointed out that establishing the appropriate level of expense reimbursement for legislators falls outside of the statutory duty of the Commission.

5. Transportation Funding Revisions (HB 314)

Carlos Braceras, Utah Department of Transportation, presented the report: "I-15 Corridor/Utah County - Salt Lake County, November 2007 - Moving Transportation Forward." During the 2007 General Session, the Legislature passed H.B. 314 "Transportation Funding Revisions" (R. Lockhart) that requires the Department of Transportation to develop a finance plan and scope of work for I-15 in Utah County that uses a positive cash flow to be available in the Transportation Investment Fund (TIF) of 2005 in fiscal year 2009.

Mr. Braceras presented a time-line for requirements expected to receive environmental review and a record of decision from the federal government to proceed with the project. A draft Environmental Impact Statement will be released on November 23, 2007 for public review and comment. Public hearings will be held on December 13th and 15, 2007 with public comment open until January 11, 2008. The Department estimates that it will receive the final decision during the summer of 2008. Once the Record of Decision is issued, the Department can proceed with final engineering and request bids from contractors to build portions or all of the forty-three miles proposed rebuild of I-15 from the southern part of Salt Lake County to south of Spanish Fork in Utah County.

In addition to reviewing the various elements of the I-15 reconstruction project, Mr. Braceras reviewed a number of strategic early projects designed to mitigate traffic impacts that will most likely occur during I-15 reconstruction. He pointed out that UDOT plans to maintain three lanes of traffic in each direction on I-15 at all times during construction.

Mr. Braceras discussed different funding scenarios that would fund I-15 at either 100% or 80% and other projects at 20%. In both cases, bonding would be necessary in order to complete the projects by 2016. If I-15 was built at once, the total estimated construction cost would be \$4.9 billion. Another scenario would be a phased approach that would see completion in 2019 at the cost of \$5.6 billion. If no bonding was used, it is anticipated that the project could be completed in 2028 at an estimated cost of \$7.7 billion.

Sen. Killpack expressed concern over environmental litigation costs. Mr. Braceras stated that thus far, the environmental process for this project has gone smoothly and doesn't sense that there is going to be a challenge to the project.

Rep. Lockhart asked for more information on the two phased approach to the I-15 reconstruction project. Mr. Braceras stated that there are two \$1.8 billion phases that could be built. The first one would include reconstruction from American Fork Main Street (Lehi 10th South to US 6), and reconstruction from Bangerter Highway down to American Fork and filling in the piece south of US 6 down to Payson. The second phase would be to reconstruct from Bangerter Highway, down to Orem Center Street, and then from Orem Center Street, down to Payson.

Rep. Lockhart asked why Orem Center Street was selected. Mr. Braceras said that the Department determined that this is where there is a significant break in traffic.

Rep. Lockhart asked for a breakdown on the additional costs for each of the interchanges. Mr. Braceras stated that he would make this information available to the Committee.

Sen. Bramble asked for an update on the Provo West Center Street interchange design. Mr. Braceras discussed a couple of options. He stated that the Department is continuing to work with the Provo City to come up with a design that will meet the needs of the local community. A final decision has not been made.

Sen. Bramble inquired about the Lehi 2100 North/4800 North connection to I-15. Mr. Braceras explained that is part of the Mountain View Corridor Project and that a draft of the EIS is out for public review and comment. Lehi City has been working with UDOT over the past four years and has provided them information with the strong suggestion that 4800 North be considered as the connection for the Mountain View Corridor to I-15. He stated that the federal government will be the final decision maker on this issue.

Sen. Bramble asked if the I-15 Reconstruction Project could proceed without final decisions on the Provo West Center Street Interchange and the Lehi Connector. Mr. Braceras stated that the

decision for the Provo West Center Street Interchange should be made before the Record of Decision is issued summer of 2008. He does not expect the Lehi Connector to be defined by then; however, this will not prevent the I-15 Project from moving forward.

Sen. Hillyard asked about the project's time frame. Mr. Braceras pointed out that this is a much longer project than the one in Salt Lake County, forty-three miles as to seventeen miles. The Department estimates that it will receive a final decision during the summer of 2008. Once engineering and request bids for construction are completed, construction would begin in the summer of 2010 with an estimated completion date of 2016.

Sen. Hillyard asked how much the Legacy Highway delay cost the people of the state of Utah. Mr. Braceras explained that the original completion date for the project was January 2001. The total project cost under one contract was \$451 million. They have three contracts in place today and the total project cost today is \$685 million. Mr. Braceras emphasized that the delay in time significantly impacted the cost of the project in terms of materials and labor.

Rep. Clark asked Mr. Braceras to make a recommendation on which funding approach would be the most efficient for construction and for commuters. Mr. Braceras stated that completing this project just as quickly as possible makes the most sense for the commuters and the most financial sense on the project. Recognizing that other projects will need to be worked on at the same time, will determine how much of the 100% funding approach is dedicated to I-15.

Sen. Jones inquired about other projects that would be considered if the 80% scenario was selected. Mr. Braceras noted projects that were on the TIF list that included: Southern Corridor in St. George, Mountain View Corridor Project, Legacy Highway Project going north from Farmington, further work on SR 201, US 6 (a significant project on this highway is worked on each year), US 191 (from I-70 through Moab, Montcello, Blanding areas), bridge and pavement needs.

Sen. Jones asked if I-15 was funded at 100 percent, how much would those projects be delayed. Mr. Braceras stated that funding would not be available for other projects until 2017.

Rep. Lockhart asked Mr. Braceras to clarify whether or not any of the funding scenarios will require any tax increases of any kind. He stated that these scenarios assume that there will be no new revenues dedicated to the Transportation Investment Fund. He also confirmed that other critical needs projects could be funded from other revenue streams.

Mr. Braceras stated that the I-15 Reconstruction Project does not include work on the Mountain View Corridor, in response to Sen. Hillyard's question.

Sen. Hillyard stated that he was somewhat familiar with the negotiations associated with the Legacy Highway and many of the participants thought that the environmental stakeholders had been included in the discussions. Unfortunately, the lack of understanding ultimately cost the state 50% of the original project costs.

6. Audit of Transportation Prioritization Process

Rick Coleman, Office of the Legislative Auditor General (OLAG) addressed the Committee. He introduced Wayne Kidd, OLAG, who presented Report Number: ILR 2007-F "A Review of the Transportation Prioritization Process." The purpose of the audit was to review the transportation prioritization process developed by Wasatch Front Regional Council (WFRC) for the Salt Lake County Council of Governments (COG), examine the use of the process by COG, and identify possible improvements for its future use.

The audit identified four concerns with the prioritization process: (1) a miscalculation of the safety criteria (safety criteria were incorrectly multiplied by the construction cost rather than divided) flawed the rankings presented to COG; (2) based on information provided to them and the attitudes of several local officials that saw transit projects as a priority, the COG chose not to select three road projects that had a higher prioritization than two of the transit projects that were selected for funding; (3) according to the funding allocation that has been accepted by COG, revenues will be used for construction costs, interest accrued on the bonds for each project, and operations and maintenance (O & M). Statute does not specifically state that revenue can be applied toward O & M; and (4) future prioritization processes should be improved.

Mr. Kidd informed the Committee that WFRC has corrected the safety factor calculation, and has also adjusted the calculations to include the entire area of projects for two factors: the *Tax Funded Annual O & M* and *Additional Width for New Projects*. The updated process is currently being applied to properly rank transportation projects for Davis County.

The audit recommends that the Legislature clarify whether the revenue from the sales and use tax increase can be used for O & M as well as construction costs. If allowed, the Legislature should determine if there should be a limit on the amount of funding that can be applied to O & M. The Legislature should also determine if projects are eligible to receive funding from the sales and use tax increase after the bonds have been retired.

The audit further recommends that future COG's follow legislative intent when developing and utilizing a written prioritization process and focus on congestion mitigation and expanding capacity when selecting transportation projects.

Mr. Kidd called attention to a response letter at the end of the report from the Salt Lake County Council of Governments to the Legislative Auditor General, dated October 10, 2007.

Mayor Dennis Nordfelt, President, Salt Lake County Council of Governments (COG) responded to the report. He was assisted by Chuck Chappell, Executive Director, Wasatch Front Regional Council (WFRC). The mathematical error that was made in calculating the prioritization of transportation projects was discovered after the COG voted on those projects. They have decided to go back and properly recalculate the numbers to come up with a new list of prioritizations for the November 26, 2007 meeting. They will either reaffirm or change the priorities depending on the will of the Expanded COG.

Mr. Nordfeld asked for direction on the O & M issue. He explained that it was COG's understanding that operations and maintenance were allowable under Utah Code 59-12-1703 which states that a local legislative body may impose a sales and use tax up to .25 percent for the purposes related to a regional significant transportation facility for a new capacity or congestion mitigation, and corridor preservation.

Sen. Killpack stated that it was his understanding that these transportation funds were to be used be used solely for construction. He further commented that language clarification may be necessary.

Rep. Bigelow stated that legislation needs to be interpreted on its face value and not on what may be implied or interpreted.

Mr. Chappell responded that one of the criteria established in the statute's prioritization process included O & M for both road and transit projects; therefore, it wasn't entirely clear whether or not O & M would be a covered expense. Rep. Lockhart explained that the O & M factor was put in to look at the long term costs to the taxpayers on each of the projects and not authorize payment of those expenses.

Rep. Bigelow stated that there is nothing that would prevent anyone from coming back to the Legislature and requesting operating and maintenance funds for transit or mass transit.

Speaker Curtis gave a historical perspective on what was intended by the legislation. Originally tied to a property tax bond that would expire after a defined period of time, special session legislation tied these funds to a sales and use tax to be voted on by tax payers. The expectation was that this approach would have a limiting factor in it. Speaker Curtis pointed out that mass transit is heavily subsidized in the operations and maintenance areas. If money is allocated to O & M, then you make the determination that this tax will continue in perpetuity. He suggested that COG reevaluate where they want to go with this item and come back to the Legislature.

Rep. Clark asked if the math and ranking had been correct, would the prioritization have changed, and if so, why? Mr. Nordfeld responded that one of the criticisms of the audit was that the materials presented to the Expanded COG seemed biased toward mass transit. He stated that he had asked staff to provide information that would support the motion he wanted to make with regard to priorities. The motion was passed with the Mid Jordan Light Rail and the West Valley Light Rail given first priority, the commuter rail given second priority, and the I-80 widening given third priority. Mr. Nordfeld stated that those are still his priorities.

Rep. Clark expressed concern that Mr. Nordfeld's response seemed to indicate that the methodology used in the prioritization process was used more in accommodation than in fact, mission or function.

Speaker Curtis, after further review of the legislation, stated that operations and maintenance may qualify as a "service relating to a regionally significant transportation facility." He did point

out that if operations and maintenance is applicable, the question must be raised as to how long this tax will be used for these purposes. He suggested that there needs to be legislative clarification on how this is set forth.

Sen. Hillyard asked if COG was intending to look objectively at the realigned prioritization list. Mr. Nordfeld said that the issue is back on the agenda for the November 26, 2007 meeting and members of the Expanded COG are not unanimous on this issue. The outcome is yet to be determined.

Sen. Killpack requested that this meeting be held in a public setting. He also expressed concern that there may be some environmental issues with the Mountain View Corridor that will need to be addressed. He stated that we can not afford any type of delay due to litigation on a \$2 billion project. Sen. Killpack emphasized the importance of communicating to our citizens the costs that long delays incur. He further asked that we keep a broader perspective in mind when deciding how these funds are to be expended. Mr. Nordfeld reassured Sen. Killpack that COG is trying to judiciously address the needs of state roads, commuter rail between Salt Lake and Utah Counties, and local transit.

Rep. Bigelow inquired about a statement in the audit that mentioned an exit poll that showed most voters preferred using the funds for rail transits. Mr. Chappell said that statement was put in there to represent interpretations in the paper, editorials, and polls before and after the election. COG did not do a poll. Mr. Bruce Jones clarified that the Chamber of Commerce conducted a poll with statistics showing 80% in favor of transit.

Sen. Bramble asked if the Expanded COG has the authority to articulate its own priorities that override higher priority projects. Mr. Nordfeld said that statute gives the Expanded COG authority to do this as long as they articulate the reasons for the changes.

Rep. Litvak stated that he voted to impose the .25 sales and use tax, and he believes that the polls accurately reflect the will of the people in Salt Lake County to support and fund transit and mass transportation.

President Valentine stated that he appreciates that the audit reflected that there was a mistake made, that the COG did recognize that a mistake was made, and that a particular outcome was sought that reflected the will of the voters. He appreciated that COG and UTA have come forth and said that they will abide by the law and use the formula to recalculate and come up with a revised prioritization list. They have also indicated that if the outcome is different from what COG feels is in the best interests of the public, they will articulate their reasons for those choices.

Co-Chair Bigelow entertained a motion from Speaker Curtis.

MOTION: Speaker Curtis moved that the Executive Appropriations Committee ask the respective majority leaders of both bodies of the Legislature to work out or sponsor a

bill that clarifies whether or not the .25 percent sales and use tax should be used for transportation operations and maintenance.

Sen. Bramble indicated that if the House Majority Leader would sponsor a bill, he would accept the responsibility to co-sponsor the bill in the Senate.

Co-Chair Bigelow called for a vote on the motion.

The motion passed unanimously with Sen. Hillyard and Rep. Dee absent for the vote.

Co-Chair Bigelow indicated that Co-Chair Hillyard had to leave briefly for an important phone call.

7. Capitol Building Progress Update

David Hart, Executive Director, Capitol Preservation Board, informed the committee that finishing and clean up were taking place and that furniture was being moved into the Capitol. A temporary certificate of occupancy is expected to be issued on December 4, 2007. Currently a number of tests are being performed on the smoke detectors and evacuation and fire alarms. Additionally, 1200 dampers tied electrically to those systems are being tested as well.

Mr. Hart stated that the Senate and House are scheduled to move into the Capitol on December 7, 2007. The Capitol, however, will not be open to the public during December due to safety concerns while construction is being finished. He encouraged the Legislature to conduct business and hold meetings in the West Building until the Capitol's opening in January.

Sen. Hillyard asked if the Executive Appropriations Committee would be holding its December meeting in the West Building. Mr. Hart confirmed that the Committee would be meeting in their regular meeting room, W135 West Building in the month of December. Mr. Hart stated that legislators will have access to their personal offices in the Capitol just as soon as they are moved in.

Sen. Hillyard commented that it would be valuable for the Legislature to view a thirty minute power point presentation that documents the history of the State Capitol. Mr. Hart stated that he would be happy to accommodate this request. He also mentioned that a facts booklet is being prepared and will be made available to the Committee.

Sen. Hillyard encouraged the Committee to review the documents found under Tab 9, Agenda Item #9 - Other Business. They include: (1) a memo - Memorandum for Executive Appropriations, Office of the Legislative Fiscal Analyst, November 6, 2007 - Medical Eligibility Consolidation Progress Update; and (2) a two-page memo - Medical Consolidation Progress Report, Department of Workforce Services, August 2007, and reported to the Health and Human Services Appropriations and Commerce and Workforce Services Appropriations Subcommittees.

8. Report on Assistance to Low Income Families and Individuals (H.B. 89)

Mark Bleazard, LFA, presented the report. During the 2007 General Session, the Legislature passed H.B. 89, "Government Assistance Expenditure Report," that requires the Office of the Legislative Fiscal Analyst to submit an annual report to the Executive Appropriations Committee on funds expended by the state during the preceding fiscal year to provide financial assistance or services to low-income individuals and families.

Mr. Bleazard identified the areas of state government that assist low income individuals and families as defined by individual programs. They are: Health, Human Services, Workforce Services, Courts, Public Education, Higher Education, and Community and Economic Development. He pointed out that individual programs have their own established criteria defining "low-income," which makes comparing across sectors difficult. To insure future reports to the Executive Appropriations Committee are consistent, the Legislature might want to consider amending the statute to define low-income.

According to the report, the State provided approximately \$2.2 billion for low-income individuals and families in FY 2007. The General Fund and Education Fund portion of the total was \$504.9 million and Federal Funds totaled \$1.5 billion.

Rep. Bigelow thanked LFA staff for the very informative report.

Mr. Bleazard concluded his remarks by noting that the \$504.9 million (General Fund & Education Fund) represents approximately 21% of the State's budget.

9. Other Business

Sen. Hillyard previously mentioned the two page memo prepared by the Department of Workforce Services, under Tab 9, that reports on the status of the Medicaid Eligibility Consolidation from the Department of Health to the Department of Workforce Services.

As per the memo from the Office of the Legislative Fiscal Analyst, both Departments have indicated that the transition has gone smoothly and that there have been no issues with the transition. The transfer was made official on July 1, 2007 with the Department of Workforce Services assuming all medical eligibility with the exception of Foster Care and Subsidized Medicaid, which are administered by the Department of Human Services.

Sen. Hillyard entertained a motion from Rep. Riesen.

MOTION: Rep. Riesen moved to adjourn. The motion passed unanimously.

Co-Chair Bigelow adjourned the meeting at 3:00 p.m.